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L'Association des
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Introduction

Indigenous people live in close connection with the land.

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Industrial projects that are proposed on federal lands, Indigenous communities and territories and outside of Canada must go through a process which evaluates the impacts the project will have in the chosen area. Projects on Indigenous lands have significant environmental, health, social, cultural, and economic impacts on local communities, especially on Indigenous women, girls, Two-Spirit, transgender, and gender-diverse peoples (WG2STGD+). Specifically, engaging with WG2STGD+ peoples allows for a more accurate assessment, as these individuals tend to be the primary nurturers and stewards of the land.

The *Impact Assessment Act 2019 (IAA)* goes through a review process every five years, which occurred in 2024. The Impact Assessment Agency of Canada (IAAC) organized a series of discussions to engage Indigenous peoples, stakeholders as well as the public on the proposed changes to three regulatory initiatives under the IAA, namely: *The Review of Physical Activities Regulations*, *The Designated Classes of Projects Order* and *Indigenous Impact Assessment: Co-Administration Agreement Regulations*.







What is an Impact Assessment?

An impact assessment is a tool used to plan and make decisions about proposed projects. It looks at the possible positive and negative environmental, social and economic effects of an industrial project and suggests ways to reduce any negative impacts.¹ If the project moves forward, follow-up programs are created to check if the impact assessment was accurate and if the measures to reduce harm are working.¹

Purpose

Impact assessments aim to promote sustainability and create fair, predictable, and efficient processes that boost Canada's competitiveness, encourage advancement, and support sustainable economic growth.¹ They achieve this by eliminating duplicate assessments with a one-project, one-assessment approach and sticking to set timelines for reliability.¹

These assessments help protect the environment and people's health, social well-being, and the economy by dealing with negative effects and considering the combined impacts of projects.²

Respecting the rights of Indigenous peoples, including Indigenous women and gender-diverse people's voices, is a key part of these assessments,

ensuring their involvement in the process and decision-making.^{2,3} These assessments also encourage communication and cooperation with Indigenous communities and provide ways for the public to get involved.^{2,3} They consider science, evidence, Indigenous knowledge, and community input to make informed decisions, and follow-up programs help improve the process over time.^{2,3}

¹ Government of Canada, "What Is an Impact Assessment," Canada.ca, 2024, <https://www.canada.ca/en/impact-assessment-agency/services/policy-guidance/basics-of-impact-assessments.html#boia3>.

² IAAC, *What Is an Impact Assessment*

³ Impact Assessment Agency of Canada, "Impact Assessment Act – Presentation," November 2020, <https://www.cnscccsn.gc.ca/eng/resources/environmental-protection/impact-assessment-act-presentation/>.

History

In 1973, Canada started the Federal Environmental Assessment and Review Process to make sure development projects caused minimal harm to the environment.⁴ This process grew to include various types of projects, including private ones involving federal involvement.³ In the beginning, federal departments evaluated their own projects, and significant impact projects were reviewed by Environment Canada, which later became the Federal Environmental Assessment Review Office (FEARO).⁴

In the mid-1970s, Justice Thomas Berger led the Mackenzie Valley Pipeline Inquiry, where he looked at the social, economic, and environmental effects of building a pipeline in the area.⁴ Berger's work helped shape the way environmental assessments were understood and done in Canada.⁴

In 1984, the government strengthened the process by creating official guidelines and assigning FEARO to manage them.⁴

The *Canadian Environmental Assessment Act* was introduced in 1990 and began being used in 1995 after necessary regulations were created.⁴ Environmental

assessments were mandatory if a federal authority was involved, provided financial assistance, or if the project used federal lands, permits, or licenses.⁴ In 1994, the Canadian Environmental Assessment Agency replaced FEARO and created an online project registry.⁴

In 1999, the Minister of the Environment (the Minister) started a five-year review of the Act, leading to a report and Bill C-19 in 2001 that amended the Act.⁴ These changes took effect in 2003, making the assessment process more predictable and timely.

⁵ This was intended to improve assessment quality and encourage more public participation.⁵ In 2010, further adjustments made the Canadian Environmental Assessment Agency responsible for more in-depth studies.⁵

In 2012, the *Jobs, Growth and Long-Term Prosperity Act* replaced the old legislation with the *Canadian Environmental Assessment Act 2012*.⁵ Only projects listed in regulations or chosen by the Minister of Environment and Climate Change will need an environmental assessment.⁵

In 2016, an Expert Panel was created to review the laws, which led to public consultations and a new proposed impact assessment system introduced in 2018.⁵ The Impact Assessment Act 2019 (IAA) came into effect and assesses both positive and negative environmental, economic, social, and health effects of proposed projects.⁵

On that same day, the Impact Assessment Agency of Canada (IAAC) replaced the Canadian Environmental Assessment Agency, which leads all project reviews and works with other regulatory bodies to conduct combined reviews of projects.⁵

⁴ Impact Assessment Agency of Canada, "Milestones in the History of Assessments," [www.canada.ca](https://www.canada.ca/en/impact-assessment-agency/corporate/mandate/milestones-history-assessments.html), January 27, 2023, <https://www.canada.ca/en/impact-assessment-agency/corporate/mandate/milestones-history-assessments.html>.

⁵ IAAC, *Milestones in the History of Assessments*





Process

An impact assessment is broken down into five phases: planning, impact statement, impact assessment, decision-making, and post-decision.⁶ Each phase has several steps, and different people are involved at each stage.⁶

Phase 1: Planning

The main objective of the Planning phase is to talk to the public and Indigenous peoples to gather their views and knowledge, figure out if a project needs an impact assessment, and, if it does, develop tools like the Tailored Impact Statement Guidelines (specific to each project) to help with the process.⁶

The project developer checks if their project requires an assessment and submits an Initial Project Description (detailed explanation of the proposed project) to IAAC if necessary.⁷

IAAC reviews the description, asks for missing information, and posts it online to start the 180-day planning phase.⁸

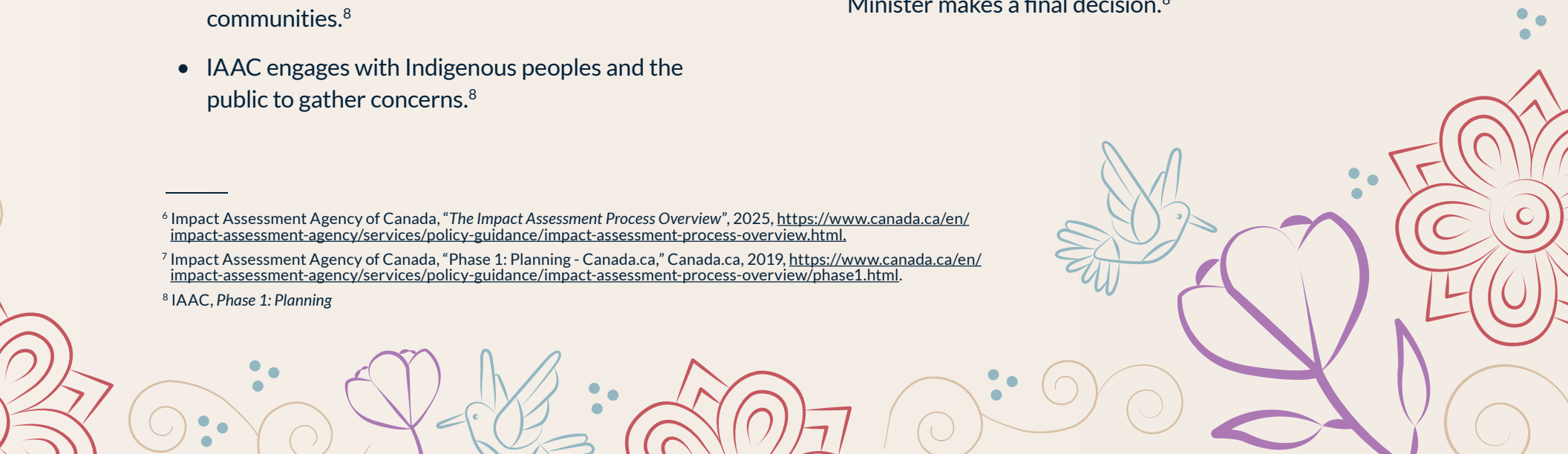
- During the planning phase, IAAC collaborates with other agencies and identifies affected Indigenous communities.⁸
- IAAC engages with Indigenous peoples and the public to gather concerns.⁸

- IAAC prepares a Summary of Issues, which the project developer responds to with a Detailed Project Description.⁸
- IAAC reviews the Detailed Project Description and decides if an impact assessment is needed.⁸
- If an assessment is required, IAAC develops engagement plans, posting them online for feedback before finalizing.⁸
- If the Minister deems it in the public interest, the assessment may be referred to a Review Panel; some projects are automatically referred.⁸
- If a jurisdiction requests to take over the assessment, IAAC posts the request online for comment, and the Minister makes a final decision.⁸

⁶ Impact Assessment Agency of Canada, "The Impact Assessment Process Overview", 2025, <https://www.canada.ca/en/impact-assessment-agency/services/policy-guidance/impact-assessment-process-overview.html>.

⁷ Impact Assessment Agency of Canada, "Phase 1: Planning - Canada.ca," Canada.ca, 2019, <https://www.canada.ca/en/impact-assessment-agency/services/policy-guidance/impact-assessment-process-overview/phase1.html>.

⁸ IAAC, *Phase 1: Planning*



Phase 2: Impact Statement

The key focus of the Impact Statement phase is for the project developer to create an Impact Statement that looks at the project's potential effects, following the guidelines in the Tailored Impact Statement Guidelines.⁹

- The Impact Statement phase begins when the Notice of Commencement (formal start date of a project) is posted online and can take up to 3 years.¹⁰
- The project developer collects necessary information and conducts studies as per the Tailored Impact Statement Guidelines.¹⁰
- The project developer works with IAAC for clarification if needed.¹⁰
- AAC engages with Indigenous groups and the public to prepare for the impact assessment.¹⁰
- The project developer submits the Impact Statement to IAAC.¹⁰
- IAAC reviews the Impact Statement, invites comments, and gathers feedback from relevant parties, including experts.¹⁰
- IAAC ensures the Impact Statement meets the guidelines and requests any missing information if necessary.¹¹
- Once complete, IAAC posts a notice online, marking the end of the phase.¹¹
- IAAC ensures all required information is submitted within three years, with possible extensions for the project developer.¹¹

⁹ IAAC, *Overview of the Impact Assessment Act*

¹⁰ Impact Assessment Agency of Canada, "Phase 2: Impact Statement," [www.canada.ca](https://www.canada.ca/en/impact-assessment-agency/services/policy-guidance/impact-assessment-process-overview/phase2.html), November 8, 2019, <https://www.canada.ca/en/impact-assessment-agency/services/policy-guidance/impact-assessment-process-overview/phase2.html>.

¹¹ IAAC, *Phase: 2 Impact Statement*







Phase 3: Impact Assessment

The primary goal of the Impact Assessment phase is for the Agency or review panel to evaluate the potential effects of a project with help from federal authorities and other participants.¹² This assessment uses the information provided by the project developer in the Impact Statement.¹²

- The Impact Assessment phase starts when IAAC posts the Notice of Determination, a document confirming the project developer has provided all required information.¹³
- This phase can last up to 300 days.¹³

- IAAC continues to consult with other jurisdictions (provincial, territorial, or Indigenous).¹³
- IAAC analyzes the information from the Impact Statement and gathers input from various groups.¹³
- IAAC may ask the project developer for clarifications or additional details.¹³
- Public meetings are held for engagement and questions.¹³
- Federal authorities provide expert advice to support IAAC's analysis.¹³

- IAAC may conduct an external technical review with independent experts.¹³
- IAAC drafts the Impact Assessment Report and potential conditions that the project developer must follow.¹³
- IAAC consults with Indigenous groups and seeks feedback on the draft report and conditions.¹³
- The final Impact Assessment Report and conditions are submitted to the Minister.¹³

¹² IAAC, *Overview of the Impact Assessment Act*

¹³ Impact Assessment Agency of Canada, "Phase 3: Impact Assessment," [www.canada.ca](https://www.canada.ca/en/impact-assessment-agency/services/policy-guidance/impact-assessment-process-overview/phase3.html), November 21, 2019, <https://www.canada.ca/en/impact-assessment-agency/services/policy-guidance/impact-assessment-process-overview/phase3.html>.

Phase 4: Decision-Making

The major goal of the Decision-making phase is to decide if the negative effects of the project, as described in the Impact Assessment Report, are in the public's best interest.¹⁴ This decision will take into account the public interest factors in the IAA, including how serious the negative effects are.¹⁴

- IAAC provides the Minister with the Impact Assessment Report, Consultation Report, and proposed conditions.¹⁵
- The Minister decides if the project's negative effects are in the public interest or refers the decision to the Governor in Council.¹⁵

- The Minister or Governor in Council must ensure Indigenous consultation has been completed.¹⁵
- If the decision is referred to the Governor in Council, a Notice of Referral explaining the choice to transfer decision-making power is posted online.¹⁵
- After the decision, the Minister issues a Decision Statement with reasons and conditions.¹⁵
- The Decision Statement must be issued within 30 days if the Minister decides, or 90 days if the Governor in Council decides.¹⁵
- IAAC posts the Decision Statement online.¹⁵





Phase 5: Post-Decision

The main focus of the post-decision phase is to make sure the conditions in the Decision Statement are followed.¹⁶ The project developer is responsible for meeting these conditions, which include steps to reduce negative impacts and a follow-up program.¹⁶ The IAAC makes certain these conditions are followed and takes action if needed.¹⁶

- The conditions include mitigation measures, a follow-up program, and possibly an adaptive management plan.¹⁷
- The project developer is responsible for the follow-up and monitoring programs, with possible involvement from federal authorities, Indigenous groups, and the public.¹⁷
- IAAC may create Monitoring Committees to support the follow-up programs.¹⁸

- IAAC tracks and reports on these programs, posting information online.¹⁸
- IAAC makes sure the project developer follows through with the Decision Statement and takes enforcement actions if required.¹⁸
- If there is a failure to follow the regulations, the IAAC works with the project developer to resolve the issue.¹⁸
- IAAC provides a review process for non-compliance orders.¹⁸
- IAAC posts compliance-related documents online.¹⁸
- The Minister can amend the Decision Statement, posting a notice and inviting public comments before issuing the amended version, which is then posted by IAAC.¹⁸

¹⁴ IAAC, *Overview of the Impact Assessment Act*

¹⁵ Impact Assessment Agency of Canada, "Phase 4: Decision Making," [www.canada.ca](https://www.canada.ca/en/impact-assessment-agency/services/policy-guidance/impact-assessment-process-overview/phase4.html), November 8, 2019, <https://www.canada.ca/en/impact-assessment-agency/services/policy-guidance/impact-assessment-process-overview/phase4.html>.

¹⁶ IAAC, *Overview of the Impact Assessment Act*

¹⁷ Impact Assessment Agency of Canada, "Phase 5: Post Decision," [www.canada.ca](https://www.canada.ca/en/impact-assessment-agency/services/policy-guidance/impact-assessment-process-overview/phase5.html), July 21, 2020, <https://www.canada.ca/en/impact-assessment-agency/services/policy-guidance/impact-assessment-process-overview/phase5.html>.

¹⁸ IAAC, *Phase 5: Post Decision*

NWAC's Involvement

In the fall of 2024, NWAC partnered with the IAAC to host five engagement sessions (four virtual and one in-person). The first gathering was an introductory presentation of what an impact assessment is, and which initiatives were going to be discussed in the upcoming roundtables: The Review of Physical Activities Regulations, The Designated Classes of Projects Order, and the Indigenous Impact Assessment: Co-Administration Agreement Regulations.

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In total, 95 Indigenous WG2STGD+ peoples participated in these roundtables to learn more about this process, ask questions and give feedback in the form of expertise and lived experiences. Feedback reports were created by NWAC on behalf of the participants and submitted to the IAAC for consideration while revising these initiatives. The reports are posted on the website.

Due to the large effect the impact assessment process has for Indigenous WG2SGD+ people, NWAC plans to continue a relationship with IAAC to work together in ensuring Indigenous voices are heard and taken into meaningful consideration.







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